

RECEIVED  
CENTRAL FAX CENTER  
AUG 28 2009

U.S. PATENT & TRADEMARK OFFICE  
IN THE OFFICE OF PETITIONS

Patent No. 6221836

Date: April 24, 2001

Application No.: 09/213,968

Filing Date: December 17, 1998

Patent Named Inventor: Paxton Beale

Assignee of All Right and Interest: Paxton Beale

PETITION FOR ACCEPTANCE OF UNAVOIDABLY  
DELAYED MAINTENANCE FEES PURSUANT TO

35 U.S.C. § 41(c) (1) and 37 CFR 1.378(b)

Petitioner herein, Paxton Beale, the first named Inventor and the Assignee of all Right and Interest in U.S. Patent 6,221,836, hereby petitions for relief in this matter, and acceptance of a late payment of the maintenance fee for US Patent 6,221,836, pursuant to 37 CFR 1.378 (b) on grounds of unavoidable delay, in spite of the fact that Petitioner exercised reasonable care and prudent diligence in the maintenance for the patent.

35 U.S.C. § 41(c) (1) states that:

"The Commissioner may accept the payment of any maintenance fee required by subsection (b) of this section ... after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable."

37 CFR 1.378(b) (3) states that any petition to accept delayed payment of a maintenance fee must include:

"A showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely, and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee, became aware of the expiration of the patent, and the steps taken to file the petition promptly."

In Re: Beale Petition/ 37 CFR 1.378

Petition Re: PAT 6.221,836

1 This request is made in the interest of Judicial economy and the avoidance of the need for the  
2 PTO Staff to docket and review of two separate filings with the same fact pattern supporting the  
3 same reasonable belief of fee payment by Petitioner.

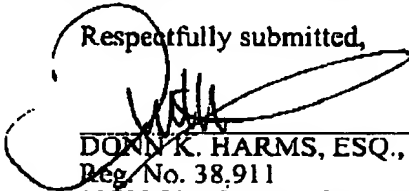
4 Consequently should the Commissioner find the petition allowing the payment of fees for  
5 the '836 patent is acceptable, and this conditional request supported by the facts, the maintenance  
6 fees due for the '469 patent can be deposited to Petitioner's Attorney's deposit account and paid  
7 directly to the PTO, or can be paid by credit card to the PTO, if the Commissioner deems such  
8 allowable.

9 As noted, the requisite fees due for the reinstatement of the '836 patent have already  
10 been tendered with this request. Should any additional fees or costs be required in this matter,  
11 please inform Petitioner's attorney and charge Deposit Account 07-1338.

12 Petitioner, through his attorney, respectfully requests that the Commissioner therefor  
13 permit acceptance of fees and surcharges for the '836 patent, and if acceptable to the  
14 Commissioner due to Petitioner's age and limited budget, that the fees and surcharges for the  
15 '469 patent be also accepted if forwarded immediately, subsequent to a favorably ruling by the  
16 Honorable Commissioner.

17 DATED: July 6, 2009

Respectfully submitted,

  
DON K. HARMS, ESQ.,  
Reg. No. 38,911  
12702 Via Cortina, Suite 100  
Del Mar, CA 92014  
TEL: 858.509.1400  
FAX: 858.509.1677

#### CERTIFICATE OF EXPRESS MAIL

22 I, the undersigned, hereby certify that this Response to Request for Information, and the  
23 Declarations of Cheryl Adler and James Burnett are being deposited on this date in an envelope  
24 as "Express Mail, Post Office to Addressee" mailing label number ET651043094US, postage  
fully pre-paid, addressed to:

Mail Stop Petition  
Commissioner for Patents  
PO BOX 1450  
Alexandria, VA 22313-1450

25  
26  
27  
28 DATED: July 6, 2009

In Re: Beale Petition/ 37 CFR 1.378

- 12 -

Petition Re: PAT 6,221,836